

NOTICE OF AGENCY RULE-MAKING ADOPTION

AGENCY: Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 105 First Aid/CPR Requirement Streamlining for Scallop and Urchin Dive and Tender License Holders

ADOPTED RULE NUMBER:

CONCISE SUMMARY:

This rulemaking is required due to DMR's new online license renewal initiative. The DMR is concerned that requiring commercial scallop and urchin diver and tender license holders to upload proof of required CPR/First Aid certification could lead to delays in processing renewals. Therefore, a box would be checked during online renewal by the license holder attesting to the fact that they have a current, valid CPR/First Aid certification. License holders still must possess and provide proof of their required training per [12 MRS §6533](#) upon request by a Marine Patrol officer.

As authorized by 12 M.R.S §6533, the Commissioner of Marine Resources adopts this regulation.

EFFECTIVE DATE: July 8, 2014

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DEPARTMENT OF MARINE RESOURCES

Chapter 105 Safety Regulations

105.10 Tender and Diver Safety requirements

A. Compliance

~~Beginning August 1, 2010, all copies of Cardio-Pulmonary Response (CPR) Card and First Aid Card or equivalent documentation must be current (non-expired). This applies to all license renewals and new applications. A copy of the current CPR and First Aid cards must be presented upon demand by Maine Marine Patrol. Exception: those persons who have never held a tender license in accordance with 12 M.R.S. §6535 or 12 M.R.S. §6536 are required to have current (non-expired) cards or equivalents as of the effective date of this regulation.~~

All copies of Cardio-Pulmonary Response (CPR) cards and First Aid cards or equivalent documentation must be current (non-expired) and in possession of the licensed tender. A copy of the current CPR and First Aid cards must be presented upon demand by a Marine Patrol Officer.

1. Tenders

Each person licensed as a sea urchin or scallop diving tender under 12 M.R.S. §6535, or acting as a tender under a license issued pursuant to 12 M.R.S. §6701(5)(B), or §6748(4)(B), must have completed safety training as required by this Chapter. The training requirements or equivalents include a Cardio-Pulmonary Response (CPR) Card and First Aid Card; plus the DMR Diving Safety Course for Tenders certificate of completion card for tenders where required; or receive a Department approved waiver, (see Waivers).

~~Persons issued a sea urchin and scallop diving tender license pursuant to 12 M.R.S. §6535 who have never held a tender license in accordance with 12 M.R.S. §6535 or 12 M.R.S. §6536 shall provide a copy of a current (non-expired) Cardio-Pulmonary Response (CPR) Card and First Aid Card or equivalent at the time of a new license application or at time of license renewal. New tender license applicants are required to complete the DMR Diving Safety Course for Tenders. Persons seeking a renewal of this license are not required to take the course (they have already met this requirement) and will be required to present a current (non-expired) Cardio-Pulmonary Response (CPR) Card and First Aid Card or equivalent at the time of a new license application or at time of license renewal beginning August 1, 2010.~~

Persons issued a sea urchin and scallop diving tender license pursuant to 12 M.R.S. 6535 who have never held a tender license in accordance with 12 M.R.S. 6535 or 12 M.R.S. 6536, must complete a DMR Diving Safety Course for Tenders. Anyone engaged in licensed activity pursuant to 12 M.R.S. 6535, must have in their possession a current (non-expired) Cardio-Pulmonary Response Card (CPR) and a current (non-expired) First Aid Card or equivalent documentation (see Waivers).

Persons acting as a tender in accordance with 12 M.R.S. §6701(5)(B), or §6748(4)(B) who have never held a tender license in accordance with 12 M.R.S. §6535 or 12 M.R.S. §6536 must have in their possession, at the time when acting as a tender, a current (non-expired) CPR card, a current (non-expired) First Aid card and a DMR Diving Safety Course for Tenders certificate of completion card pursuant to 12 M.R.S. §6533, or Department approved equivalent documentation (see Waivers).

Persons acting as a tender in accordance with 12 M.R.S. §6701(5)(B), or §6748(4)(B) who have held a tender license in accordance with 12 M.R.S. §6535 or 12 M.R.S. §6536 must have in their possession, at the time when acting as a tender, a current (non-expired) CPR card, a current (non-expired) First Aid card beginning August 1, 2010.

2. Divers

Persons licensed as a scallop diver in accordance with 12 M.R.S. §6701 or sea urchin diver in accordance with §6748 shall provide a current (non-expired) copy of a Cardio-Pulmonary Response (CPR) Card and First Aid Card or equivalent beginning August 1, 2010. ~~(No new urchin or scallop diver licenses are being issued at this time.)~~

~~Also see Table of requirements below.~~

B. DMR Diving Safety Course for Tenders

Training shall provide basic recognition of diver related injuries and emergency procedures encompassing boating safety emergency responses as first responders. Upon successful completion of the course a card indicating proof of completion shall be issued by the Department.

1. Contact information

To obtain information about the DMR Diving Safety Course for Tenders contact: Marine Patrol Headquarters, Attn Tender Safety Training, Dept. of Marine Resources, 21 State House Station, Augusta, ME 04333; telephone (207-624-6550), or online from the Department's web site at <http://www.maine.gov/dmr/index.htm> then search under the license category for "other forms".

C. Waivers

The Commissioner may waive the requirement to complete the CPR, First Aid or the DMR Diving Safety Course for Tenders as provided in Chapter 105.10(B) for any person who demonstrates to the Commissioner, either through documented experience or technical or professional accreditation, a level of knowledge at least equal to that expected from a person who completed the training requirements of this Chapter. It is the responsibility of the person seeking such a waiver to request that waiver in writing to the Commissioner and to provide any documentation the Commissioner determines necessary to make a decision.

~~D. Table of requirements~~

What → Who ↓	CPR card ↓ (non-expired as of 8-1-10 except for*)	First Aid card ↓ (non-expired as of 8-1-10 except for*)	Course ↓
New applicants for Scallop/Urchin Tender license (12 MRS §6535)	show w/application	show w/application	Must complete course prior to license issuance (*non-expired as of 12-21-09)
Renewal of Scallop/Urchin Tender - license holder (12 MRS §6535)	Provide at license renewal	Provide at license renewal	NA (These license holders have already completed a DMR approved course.)

Scallop/Urchin boat w/tender license holder w/ non- licensed tenders per: (12 MRS §6701(5)(B)) (12 MRS §6748(4)(B))	At time of application and future renewals	At time of application and future renewal	NA
*Persons acting as tenders under the Scallop/Urchin boat w/tender license holder per: (12 MRS §6701(5)(B)) (12 MRS §6748(4)(B))	In possession & and upon demand by Maine Marine Patrol (MMP) request (*non-expired as of 12-21-09)	In possession & and upon demand by MMP request (*non-expired as of 12-21-09)	Course completion card or after course completion will be entered in DMR license database available to MMP
Persons acting as tenders under the Scallop/Urchin boat w/tender license holder per: (12 MRS §6701(5)(B)) (12 MRS §6748(4)(B)) who have held a tender license per 12 MRS §6535 or §6536	In possession & and upon demand by Maine Marine Patrol (MMP) request beginning 8-1-10	In possession & and upon demand by Maine Marine Patrol (MMP) request beginning 8-1-10	NA (These license holders have already completed a DMR approved course.)
Scallop diver license holder (12 MRS §6701)	Provide at license renewal	Provide at license renewal	NA
Urchin diver license holder (12 MRS §6748)	Provide at license renewal	Provide at license renewal	NA

Basis Statement

Chapter 105 First Aid/CPR Requirement Streamlining for Scallop and Urchin Dive and Tender License Holders

This rulemaking is required due to DMR's new online license renewal initiative. The DMR is concerned that requiring commercial scallop and urchin divers and tender license holders to upload proof of required First Aid/CPR certification could lead to delays in processing renewals. Therefore, a box would be checked off during online renewal by the license holder attesting to the fact that they have a current, valid First Aid/CPR certification. License holders still must possess and provide proof of their required training per [12 MRS §6533](#) upon request by a Marine Patrol officer.

As authorized by 12 M.R.S. §6533, the Commissioner of the Department of Marine Resources adopts this regulation.

In accordance with [5 M.R.S. §8052, sub-§5-A](#) a statement of the impact on small business has been prepared. Information is available upon request from the DMR Commissioner's office, State House station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

Summary of Comments

Chapter 105 First Aid/CPR Requirement Streamlining for Scallop and Urchin Dive and Tender
License Holders

No comments were received on this proposed rule.

Rulemaking statement of impact on small business
5 MRS §8052, sub-§5-A and §8053, sub-§3, ¶F, and
Executive Order 20 FY 11/12, August 24, 2011 (replaces EO's 09, 13 & 14)

Agency: Department of Marine Resources

Chapter Number and Title of Rule: Chapter 105 First Aid/CPR Requirement Streamlining for Scallop and Urchin Dive and Tender License Holders

1. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule:

In 2013, the number of existing scallop and urchin dive tender license holders was 66. In 2013, there were a total of 86 licensed commercial scallop divers and 178 licensed commercial urchin divers.

2. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

This rule would have a positive impact on both the DMR and license holders. Online renewal of commercial dive and tender licenses will save money and time for both parties. Physical proof of CPR/First Aid certification will no longer be physically required for renewal but rather a box will be checked off by the applicant attesting to the requirements of Chapter 105 have been met.

3. A brief statement of the probable impact on affected small businesses:

This regulation would positively impact persons who are a licensed scallop or urchin tender, or a person acting as a tender who are renewing their annual license online by not requiring them to upload current required first aid/CPR certification. The certification would still be required and must be presented to a Marine Patrol Officer upon request.

4. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule:

This rule would help to streamline the online commercial dive and tender renewal process. Currency in safety training is considered invaluable to prevent loss of life and has been supported in part by the Commercial Fishing Safety Council and Sea Urchin Zone Council by their various forms of support as documented in the minutes of their past meetings.

5. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained: Information is available upon request from the DMR Commissioner's office, State House station #21, Augusta, Maine 04333-0021, telephone (207) 624-6553.

Rule-Making Fact Sheet

(5 M.R.S.A., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE: Chapter 105 First Aid/CPR Requirement Streamlining for Scallop and Urchin Dive and Tender License Holders

STATUTORY AUTHORITY: 12 M.R.S. §6533

DATE AND PLACE OF PUBLIC HEARING: None Scheduled

COMMENT DEADLINE: June 20, 2014

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

This rulemaking is required due to DMR's new online license renewal initiative. The DMR is concerned that requiring commercial scallop and urchin divers and tender license holders to upload proof of required First Aid/CPR certification could lead to delays in processing renewals. Therefore, a box would be checked off during online renewal by the license holder attesting to the fact that they have a current, valid First Aid/CPR certification. License holders still must possess and provide proof of their required training per [12 MRS §6533](#) upon request by a Marine Patrol Officer.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

This regulation would positively impact persons who are a licensed scallop or urchin diver, a licensed scallop or urchin tender, or a person acting as a tender who are renewing their annual license online by not requiring them to upload current required first aid/CPR certification. The certification is still required and must be presented to a Marine Patrol officer upon request.

FISCAL IMPACT OF THE RULE:

Enforcement of these regulations will not require additional administrative and enforcement activity in this Agency. Existing enforcement personnel will monitor compliance during their routine patrols.